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Situation of human rights in Myanmar

Report of the Secretary-General

Summary

The present report is based upon the good offices efforts undertaken by the Secretary-General and his Special Envoy aimed at facilitating national reconciliation and democratization in Myanmar, in accordance with General Assembly resolution 59/263 of 23 December 2004.

The Secretary-General believes that the National Convention, which is charged with drawing up the principles based upon which a new constitution will be drafted, and the seven-point road map towards democracy announced by the Myanmar authorities in 2003, have the potential to generate positive change. However, as he has stressed from the beginning, the road map process should be transparent and all-inclusive in order to ensure its credibility. To date, the National Convention — whose reconvening in 2004 constituted the first step of the seven-point road map, has regrettably fallen short of satisfying these basic requirements. The Convention, which is expected to resume later in 2005, continues to exclude representatives from many political parties, including the National League for Democracy, and several ethnic nationality groups, as well as other crucial groups of society. It also fails, in its present format, to adhere to the recommendations made by successive resolutions of the General Assembly. The Secretary-General thus reiterates his call upon the Myanmar authorities to take the necessary steps to make the road map process more inclusive and credible when the Convention resumes later in 2005, and during subsequent phases of the road map process, including those for drafting the constitution and organizing a national referendum.

As a first step towards that end, the Secretary-General encourages the Myanmar authorities to resume dialogue with the representatives of all ethnic nationality groups and political leaders. Such a step should commence as soon as possible and be followed by: further release of political prisoners; the lifting of the remaining

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constraints on all political leaders; reopening of offices of the National League for Democracy; and inclusion of the aforementioned groups in the ongoing road map process. The Secretary-General hopes to see these steps implemented by the first half of 2006. If progress occurs, the Secretary-General is prepared to do his utmost to mobilize all the necessary international assistance to support the Myanmar authorities in facilitating their national reconciliation efforts so that the people of Myanmar can partake in the same benefits of economic, social and political development as are enjoyed in neighbouring countries.

I. Introduction

1. The present report is submitted pursuant to paragraph 4 of General Assembly resolution 59/263 of 23 December 2004 entitled "Situation of human rights in Myanmar", in which the Assembly requested the Secretary-General, inter alia, to continue to provide his good offices and to pursue his discussions on the situation of human rights and the restoration of democracy with the Government and people of Myanmar, including all relevant parties to the national reconciliation process, and to report to the Assembly at its sixtieth session, and to the Commission on Human Rights at its sixty-first session, on the progress made in the implementation of that resolution.

2. The Secretary-General's good offices efforts have encountered considerable difficulties since the ousting of the former Prime Minister, General Khin Nyunt, and his associates in the fourth quarter of 2004, which resulted in a significant reduction of political contacts between the United Nations and the Myanmar authorities. His Special Envoy has not been allowed to visit Yangon since March 2004 and the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar since November 2003; consequently, political discussions with the Government of Myanmar have been held only outside the country on limited occasions.

3. Nevertheless, the Secretary-General remains committed to offering his good offices to facilitate national reconciliation in Myanmar. The Secretary-General believes that the seven-point road map towards democracy announced by the Myanmar authorities in 2003 has the potential to generate positive change. Furthermore, accepting that Myanmar faces complex and difficult challenges in both its transition to democracy and its quest for national reconciliation, he has acknowledged that the National Convention, whose reconvening in 2004 constituted the first stage of Myanmar's seven-point road map towards democratic transition, has a potential role to play. He has advised the Myanmar authorities that the process must become all-inclusive and democratic, permitting views to be expressed freely and openly, in order to attain the full support of the international community.

4. Regrettably, the National Convention, which met from May to July 2004 and again from February to March 2005, did not include representatives from either the National League for Democracy (NLD) or several other ethnic nationality political parties, including the Shan Nationalities League for Democracy (SNLD), which had won the second largest number of seats in the 1990 elections. The restrictions on the movement and political freedom of many political leaders, including the General Secretary of the National League for Democracy, Daw Aung San Suu Kyi, have either stayed the same or worsened: offices of the National League for Democracy remain closed, except for its headquarters in Yangon; and despite the release of 249 political prisoners welcomed by the Secretary-General in his statement of 7 July 2005 (press release SG/SM/9982), the detention and arrest of people who express their political views continue. These developments are incompatible with the processes of democratization and national reconciliation, however they are defined. The National Convention, as currently configured, can be regarded neither as being genuinely all-inclusive nor as adhering to the recommendations made by the General Assembly in successive resolutions and by the Commission on Human Rights.

II. Content of the discussions

5. In an effort to resume political discussions and facilitate national reconciliation and democratization in Myanmar, the Secretary-General, together with his Special Envoy, met with Senior General Than Shwe, Chairman of the ruling State Peace and Development Council (SPDC), on the sidelines of the Asia-Africa summit held in Jakarta in April 2005. The Secretary-General and his Special Envoy underscored the need to make the ongoing National Convention process more inclusive and credible and encouraged the Myanmar authorities to engage with the National League for Democracy and other political parties in a substantive dialogue on how they can work together for the benefit of the people of Myanmar. Separately, his Special Envoy also met with the Minister for Foreign Affairs, U Nyan Win, on the margins of the Tenth Summit Meeting of the Association of Southeast Asian Nations (ASEAN), held in Vientiane in November 2004.

6. Senior General Than Shwe took note of the points raised by the Secretary-General and invited him to visit Myanmar. He renewed the invitation for the Secretary-General to visit Myanmar "at a mutually convenient date" during his meeting with Mr. Ali Alatas, who visited Yangon in his capacity as the Secretary-General's Special Envoy for Reform in August 2005.

7. The overall developments in the past year do not meet United Nations expectations: the National Convention still excludes the representatives of the National League For Democracy and other political parties; the call of the National League For Democracy for dialogue since December 2004 has gone unheeded by the Government; and the detention of Daw Aung San Suu Kyi and her Deputy, U Tin Oo, was extended in November 2004 for another year. While the ceasefire agreements between the Government and 16 ethnic nationality groups seem to be holding, the arrests of several Shan leaders, including the President of the Shan State Peace Council (SSPC) and the Chairman of the Shan Nationalities League for Democracy in early 2005, have reportedly led to the withdrawal of the Shan State National Army (SSNA) from its ceasefire agreement with the Government and to a surge of violence in various parts of Shan State. The peace talks that resumed between the Government and the Karen National Union (KNU) in 2004 have reportedly stalled. Conflict has also escalated along the Myanmar-Bangladesh border.

8. The United Nations funds and programmes, and the organizations, tasked to provide humanitarian assistance for the people of Myanmar have been compelled to operate in a more restricted operational environment, with authorities imposing onerous fees, bureaucratic hurdles, and extensive restrictions on both travel to projects sites and the import of supplies and equipment. The Global Fund to Fight AIDS, Tuberculosis and Malaria recently withdrew its funding pledges of $98 million from Myanmar on the grounds that "its grants to the country cannot be managed in a way that ensures effective programme implementation". A significant risk exists that other aid groups will follow suit, thereby worsening the plight of millions of people in Myanmar.

9. In addition to the above issues, there has been an increase in the risk of a humanitarian crisis erupting in Myanmar due to: damaging socio-economic policy decisions by the Government and the absence of the rule of law. As it is understood that political realities greatly impact upon the humanitarian situation, the need is

paramount for the Government to establish a viable development strategy. The most recent official figures identify the areas of hunger/malnutrition, HIV/AIDS, poverty and education as among those whose problems are of highest concern, noting that they are negatively affecting an increasing proportion of the population in Myanmar.

III. Observations

10. More than 10 years have passed since the Secretary-General was first asked by the General Assembly to provide his good offices in facilitating national reconciliation and democratization in Myanmar. In the meantime, the citizens of Myanmar have endured unnecessary social and economic hardship because of the absence of an all-inclusive process of democratization and national reconciliation in their country. Their predicament has been compounded by economic policies that have prevented the vast majority from improving their livelihoods.

11. The Secretary-General thus reiterates his call upon the Myanmar authorities to take the necessary steps to make reform efforts more inclusive and credible when the National Convention resumes later in 2005 and during subsequent phases of the road map process, including those for drafting the constitution and organizing a national referendum. In this context, the Secretary-General recalls that Daw Aung San Suu Kyi has expressed her readiness to cooperate with the Government for the good of the people. Similar willingness has also been expressed by the representatives of ethnic nationality political parties.

12. The Secretary-General thus encourages the Myanmar authorities to resume dialogue with the representatives of all ethnic nationality groups and political leaders. Such a step should commence as soon as possible and be followed by: further release of political prisoners; the lifting of the remaining constraints on all political leaders; reopening of offices of the National League for Democracy; and inclusion of the aforementioned groups in the ongoing road map process. The Secretary-General hopes to see these steps implemented by the first half of 2006. He further calls upon countries of the region, particularly China, India and ASEAN member States, to take a leading role both in providing counsel for, and in accelerating the pace of, political, economic and socio-humanitarian reform in Myanmar. The Secretary-General welcomes the Chairman's statement made at the Twelfth Meeting of the ASEAN Regional Forum on 29 July 2005, in which he called for "lifting of restrictions and for effective dialogue with all parties concerned"; "an early resumption of the visit to Myanmar" by the Special Envoy of the Secretary-General for Myanmar; and "continued cooperation with other relevant United Nations agencies".

13. If progress occurs, the Secretary-General is prepared to do his utmost to mobilize all the necessary international assistance to support Myanmar authorities in facilitating their national reconciliation efforts in order to ensure that the people of Myanmar can partake in the same benefits of economic, social and political development as are enjoyed in neighbouring countries.